



ITG News

Keeping First Nations Informed



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Message From The Director

In July we mailed our first ever Customer Satisfaction Survey to each of the 564 federally-recognized tribes. This effort was part of our desire to have our customers provide us with direct feedback on how well we are doing our job and meeting their needs and expectations.

I am pleased to report that the overall level of satisfaction was very high. However, that does not mean that we cannot improve. In fact, the survey results provided us with several areas where we will be undertaking actions. Many of those actions are included in a summary that we posted to our web site at www.irs.gov/tribes, but I also want to share some of the more significant actions that we are planning.

First, we will be making a renewed effort to ensure that every tribe is aware of our office and our mission. We will attempt to accomplish this through a marketing effort that will provide tribal contacts with readily accessible information on contact points and work hours for their assigned field specialists. We will also provide information on back-up contacts in the event that the primary contact is not available.

Second, we are initiating steps to improve access to our office and tax information through our web site. Many of our existing features, including our e-mail link, will be redesigned to attempt to improve their visibility, and the ability of our customers to locate the information that is utilized the most often. We will also be focusing efforts on working with tribes to remedy the cause of penalties, and to better address the tax issues for their members. Other actions are listed on our web site.

I want to thank each tribe that took the time to compete and return the survey. Your feedback is very important to us, and I look forward to your continuing feedback in the future.

Christie Jacobs



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To add your name or e-mail address to our mailing list, please contact us via e-mail at gary.l.hahn@irs.gov, or call Gary Hahn at (716) 686-4862.

*Account or Tax Questions??
Call Customer Account Services
at 1-877-829-5500*



Update on Consultation Listening Meetings

Based on the recommendations of the Advisory Committee to the Tax Exempt Government Entities Commissioner, we are currently holding a series of 12 “listening” meetings that are designed to allow tribal input into the scope and process that might be employed in an eventual IRS/Tribal Consultation Policy.

We have completed six of the meetings and have received valuable ideas. However, there are still six additional meetings that will be held during the next three months as follows:

Wednesday October 15th

1:00-4:00pm

Holiday Inn – Duluth, Minnesota

200 West First Street

Thursday October 23rd

1:00-4:00pm

Westmark Hotel – Anchorage, Alaska

720 West 5th Street

Tuesday November 18th

1:00-4:00pm

U.S. Mint Building – Washington, D.C.

801 9th Street NW

Tuesday December 9th

9:30am-12:30pm

Courtyard by Marriott (Airport) – Albuquerque, New Mexico

1920 Yale Blvd SE

Wednesday December 10th

Navajo Nation

Time and Location TBA

Thursday December 11th

1:00-4:00pm

Hilton Phoenix East – Mesa, Arizona

1011 West Holmes Avenue

If you are interested in participating, you can attend any of the remaining meetings by registering on-line through the registration link on our web site at www.irs.gov/tribes. You can also submit input through the e-mail link on the bottom of the registration page. Once all of the meetings are completed, we will be posting a summary of the input received to our web site, and inviting additional comments before any drafting process begins.



Federal Unemployment Taxes

The purpose of this article is to provide a refresher on the issue of Federal Unemployment Taxes as they apply to Indian tribes.

As you may know, as of December 21, 2000, Indian tribes are not required to file Form 940. This law was enacted under the Consolidated Appropriations Act (CAA), 2000.

Indian tribes are now treated similarly to State and Local Governments. Services performed in the employ of tribes generally are no longer subject to the FUTA tax unless the tribal government elects not to participate in the State unemployment system. This election can be made on an entity-by-entity basis. Also, as a condition of participation in the Federal-State Unemployment Compensation program, services performed in the employ of the tribes are, with specified exceptions, required to be covered under State unemployment compensation laws.

The law requires State law to provide that Indian tribes may participate in the state unemployment program. The state unemployment programs must allow an Indian tribe to either elect to make contributions to the State unemployment fund as if services by its employees were employment under FUTA, or to make payments in lieu of the contributions in amounts equal to the unemployment benefits attributable under the State law to such service. Indian tribal governments may make separate elections for any subdivision, subsidiary, or business enterprise wholly owned by it.

The law pertains to federally recognized tribes, Alaska Native Villages, and their political subdivisions published in the Federal Register. Furthermore, this legislation does not exempt a private business operating on tribal property from filing Form 940.

The Office of Indian Tribal Governments is available to assist Indian Tribes with any issues regarding Federal Unemployment Taxes they may have. Should you have any questions or concerns, please contact the Specialist assigned to your tribe.



Money Services Businesses

When we hear about Title 31, also known as the Bank Secrecy Act, most of us consider the reporting requirement for transactions of over \$10,000 in either cash-in or cash-out. We are also now aware of the Suspicious Activity Reporting requirements within Title 31 that were effective March 25, 2003.

Another important part of the Bank Secrecy Act, which you may not be as familiar with, regards Money Services Businesses (MSB). Please make sure you are properly following the Bank Secrecy Act requirements for MSBs.

The Bank Secrecy Act was amended with regard to definitions relating to, and registration of, Money Services Businesses. The amendments revise the definitions of certain non-bank financial institutions for purposes of the Bank Secrecy Act and group the revised definitions together in a separate category called "money services businesses." The amendment also require certain money services businesses to register with the Department of the Treasury and to maintain a current list of their agents for examination, on request, by any appropriate law enforcement agency. The amendments regarding registration and maintenance of agent lists by Money Services Businesses reflect changes to the law made by the Money Laundering Suppression Act of 1994. The effective date of the amendment was September 20, 1999. As for the applicability date, the registration of MSBs was not required prior to December 31, 2001, and the maintenance of the agent list was not required prior to January 1, 2002. As you can see, all MSBs must currently be registered and the agent list maintained.

You are considered to be a MSB if you are a money transmitter, or the US Postal Service, or if you are a currency dealer or exchanger, a check casher, an issuer, seller, or redeemer of traveler's checks, money orders or stored value, that has done a transaction greater than \$1,000 in currency or monetary instruments for any person during any day.

Per 31 CFR §103.41 (a), "each Money Services Business (whether or not licensed as a Money Services Business by any State) must register." They must all register unless the MSB is a government agency, the US Postal Service, an issuer, seller or redeemer of stored value, or simply an agent of an MSB that has already registered.

The initial registration period is the two calendar year period beginning with the calendar year in which the MSB is first required to register. Each two-year calendar period following the initial registration period is a renewal period.

Form TD F 90-22.55 is used for registration, renewal, and re-registration. Please refer to the instructions for this form for required filing dates, renewal dates and re-registration requirements and dates.

The MSB Agent's list must also be updated each January 1 thereafter .

Severe penalties may be applicable for failure to register or maintain required records. Failure to Register includes filing of false or materially incomplete information. The violation is \$5,000 per violation (31 CFR 103.41 (e)), and each day is a violation. For negligence, the amount is \$500 (31 CFR 103.57 (h)). There are penalties for violation of the 5-year record retention requirements of \$1,000 for intentional violation and \$500 for negligent violation.

Effective January 1, 2002, MSBs must file Form TD F 90-22.56, within 30 days after a money service business becomes aware of a suspicious transaction. There are special rules regarding when a transaction is required to be reported as suspicious and certain dollar criteria also. Please refer to the instructions for Form TD F 90-22.56 for more details.

As you can see, it is important to determine if the Tribe has a Money Services Business and is following the Bank Secrecy Act requirements. If you would like additional assistance regarding MSBs, Please contact your Indian Tribal Government Specialist.



Frequently Asked Questions

Are payments made to Tribal Council members subject to Federal Insurance Contributions Act (FICA) or Federal Income Tax Withholding?

No, the payment to Tribal Council members are not subject to withholding for any of the above items (Revenue Ruling 59-354). Although includible in gross income under Internal Revenue Code Section 61, amounts paid to members of Indian tribal councils for services performed by them as council members do not constitute wages for the purposes of the FICA, FUTA or the collection of income tax at the source on wages.

Are payments to Tribal Council members subject to self-employment tax?

No. Council members are regarded as common law employees and therefore are not subject to the self-employment tax.

Since they are "employees" and receive a Form W-2, their "wages" are reported on line 7 of their Form 1040, U.S. Individual Income Tax Return. Amounts paid to members of Indian tribal councils for services performed by them are includible in gross income under Internal Revenue Code Section 61.

Do Tribal Council Members receive a Form W-2, Wage and Tax Statement?

Yes, Tribal Council members receive a Form W-2. They are common law employees not subject to FICA or Federal Withholding Tax (PLR 199906001 and Walker v. Commissioner, 37 T.C. 962).

We're looking for subscribers.....

If you're not already a subscriber, but would like to receive quarterly issues of ITG News, please send your name and address (e-mail or regular mail) to Gary Hahn at gary.l.hahn@irs.gov and we'll be sure to add you to our mailing list.



Patriot Act Communication System

With the passage of the USA PATRIOT Act of 2001, the Financial Crimes Enforcement Network (FinCEN) was tasked with developing a highly secure network to allow filing institutions to electronically file Bank Secrecy Act (BSA) forms, in particular Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs).

In order to meet these requirements, FinCEN has developed the Patriot Act Communication System ("PACS"). The system will allow:

- Filing institutions and other organizations to electronically file CTRs and SARs in a highly secure fashion over the Internet. This includes both single forms as well as batches of forms (i.e., multiple CTRs or SARs contained in electronic batches).
- FinCEN to issue advisories and PACS system updates to the PACS user community
- Members of filing institutions to send secure messages to FinCEN (and receive responses where appropriate).

Effective October 1, 2003 PACS will include the following new forms:

- FinCEN Form 101 (SAR by the Securities and Futures Industries)
- FinCEN Form 102 (SAR by Casinos and Card Clubs)
- FinCEN Form 103 (CTR by Casinos), and
- Form TDF 90-22.56 (SAR by Money Services Business).

How PACS Will Work

Accessing PACS: The PACS system will be hosted on a secure website on the Internet. Filing institution personnel will be able to access PACS only after they have applied for and received a digital certificate from a Government-approved certificate authority.

Using PACS to File BSA Forms: Some institutions regularly file thousands of electronic CTRs and dozens of SARs at a single time. Other institutions file only a small number of electronic or paper-based CTRs and SARs yearly. For both, PACS will serve as another, more efficient conduit for filing BSA forms with the Government. Filing institutions will not be required to file BSA forms using PACS; it will instead be another avenue available to them for filing. All BSA forms and data submitted to PACS are encrypted for protection. At the end of each day, PACS will deliver all submitted BSA data to the IRS Detroit Computing Center for processing. Electronic notification of filings will be provided by PACS to filing institutions.

Alerts and Secure Messaging: FinCEN will use PACS to issue alerts consisting of FinCEN advisories, PACS System updates, and other communications to the PACS user community.

For further information about filing through PACS, visit <http://pacs.treas.gov>. If you have any questions concerning the system, please contact the PACS Help Desk at 1-888-827-2778 (option 6) or via e-mail at PACSHelp@notes.tcs.treas.gov.

New Casino Report Form Implemented

Effective October 1, 2003, FinCEN Form 103 has replaced Form 8362 (Currency Transaction Report for Casinos). A

Federal Tax Calendar for Fourth Quarter 2003

October 2003

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3 * Payroll date 9/27 - 9/30	4
5	6	7	8 * Payroll date 10/1 - 10/3	9	10 * Payroll date 10/4 - 10/7 Employees report September tips to employer	11
12	13	14	15 ** Monthly payroll tax deposit for September	16 * Payroll date 10/8 - 10/10	17 * Payroll date 10/11 - 10/14	18
19	20	21	22 * Payroll date 10/15 - 10/17	23	24 * Payroll date 10/18 - 10/21	25
26	27	28	29 * Payroll date 10/22 - 10/24	30	31 * Payroll date 10/25 - 10/28	

November 2003

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5 * Payroll date 10/29 - 10/31	6	7 * Payroll date 11/1 - 11/4	8
9	10 Employees report October tips to employer	11	12	13 * Payroll date 11/5 - 11/7	14 * Payroll date 11/8 - 11/11	15
16	17 ** Monthly payroll tax deposit for October	18	19 * Payroll date 11/12 - 11/14	20	21 * Payroll date 11/15 - 11/18	22
23	24	25	26 * Payroll date 11/19 - 11/21	27	28	29
30						

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule. ** = Make a Monthly Deposit if you qualify under that rule.



December 2003

SUN	MON	TUE	WED	THU	FRI	SAT
	1 * Payroll date 11/22-11/25	2	3 * Payroll date 11/26-11/28	4	5 * Payroll date 11/29-12/2	6
7	8	9	10 * Payroll date 12/3 - 12/5 > Employees report November tips to	11	12 * Payroll date 12/6 - 12/9	13
14	15 ** Monthly payroll tax deposit for November	16	17 * Payroll date 12/10-12/12	18	19 * Payroll date 12/13-12/16	20
21	22	23	24 * Payroll date 12/17-12/19	25	26	27
28	29 * Payroll date 12/20-12/23	30	31 * Payroll date 12/24-12/26			

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed

Return Filing Dates

By October 31

File Form 941 for the third quarter of 2003. If the tax was deposited in full and on time, file by November 10.

File Form 730 on applicable wagers accepted during September 2003.

By November 30

File Form 730 for applicable wagers accepted during October 2003.

By December 31

File Form 730 for applicable wagers accepted during November 2003.